

SBCivil Writ Petition No.3087/2003

Sarita Gora
Vs.
State of Rajasthan & Ors.

Date of Order :: 11th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. H.S.Sidhu, for the petitioner.
Mr. Shyam Ladreacha, Additional Government Advocate.

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The petitioner, a member of Scheduled Caste in pursuant to a notification dated 18.1.2003 applied for appointment to the post of Constable in IIIrd Battalion, R.A.C., Bikaner against 30 existing vacancies out of which 17 vacancies were pertaining to aspirants belonging to Scheduled Caste. Out of reserved vacancies referred above 30% vacancies were further reserved for female aspirants belonging to Scheduled Caste. As such the respondents were required to fill in atleast five vacancies from among the females while making recruitment to the post of Constable. The petitioner faced selection proceedings, however, she was not placed on approved list on the count that she failed to qualify interview i.e. a part of the selection proceedings, hence this petition for writ is preferred.

The contention of the petitioner is that while making direct recruitment to the post of Constable the

approved list is required to be prepared in order of merit irrespective of the fact that the incumbent has secured minimum pass marks in interview or not. In alternative it is also contended that even if it is assumed that a candidate is required to obtain minimum pass marks in interview then too the petitioner deserves to be selected as the minimum pass marks for Scheduled Caste candidates is 30% and not 36%, as stated by the respondents.

In reply to the writ petition the respondents have accepted the position that in aggregate the petitioner has secured 55.5% marks i.e. atleast .5% marks higher than the last person selected in her category. A statement of marks is placed on record by the respondents that shows that the petitioner secured 27.5 marks and 25 marks respectively in written test and endurance test. She secured 3 marks out of 10 marks in interview. By adding marks obtained by the petitioner in different categories the petitioner stands in merit, however, being having marks less than 36% in interview she was not placed in the list of selected candidates. According to the respondents under the Rajasthan Police Subordinate Service Rules, 1989 (hereinafter referred to as "the Rules of 1989") direct recruitment to the posts in Rajasthan Police Subordinate Service is required to be made in accordance with the procedure prescribed in Part-IV. Rule 23 of the Rules of 1989 provides that no

candidate who has secured marks less than 36% in interview and 45% in aggregate shall be recommended for appointment. The petitioner being having marks less than 36%, according to the respondents, was not selected.

Heard counsel for the parties.

It is the position admitted that the petitioner in aggregate secured 55.5% marks but she failed to secure 36% marks in interview, therefore, she was not placed in the list of selected incumbents.

The proviso to Rule 23 makes it crystal clear that in the case of a person belonging to Scheduled Caste the minimum pass marks for interview is 30% and not 36% as for the candidates belonging to general categories or OBCs. The petitioner being a member of Scheduled Caste is certainly entitled for the relaxation provided under Rule 23 of the Rules of 1989 itself. The petitioner has secured 3 marks out of 10 marks in interview, therefore, the respondents erroneously treated her failed in interview. The petitioner, therefore, is certainly entitled to be treated as a successful candidate and also deserves to be placed in select list as she is having 55.5% marks that is atleast .5% marks higher than the person last recruited in the category of female Scheduled Caste candidates.

This petition for writ is accordingly allowed. The respondents are directed to reconsider the candidature of the petitioner by treating her qualified in interview and appointment be accorded to her as Constable by placing her in the select list at appropriate place in order of merit.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.